

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 15, 2013

AMENDED IN SENATE APRIL 1, 2013

## **SENATE BILL**

**No. 714**

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**Introduced by Senator Block**

February 22, 2013

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An act to add and repeal Sections 46308 and 46309 of the Education Code, relating to schools.

### LEGISLATIVE COUNSEL'S DIGEST

SB 714, as amended, Block. Schools: average daily attendance: online instruction.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on, among other factors, the average daily attendance of pupils at the schools operated by those agencies. Existing law authorizes, commencing with the 2014–15 school year, for purposes of computing average daily attendance, the inclusion of pupils in grades 9 to 12, inclusive, under the immediate supervision and control of a certificated employee of the school district or county office of education who is delivering synchronous, online instruction, as defined, provided that this instruction meets specified criteria.

This bill, separate from the authority related to online instruction described above, subject to the adoption by the Superintendent of Public Instruction of implementing rules and regulations on or before January 1, 2015, and commencing with the 2015–16 fiscal year, would authorize

school districts, county offices of education, and charter schools *providing classroom-based instruction* that offer high-quality online education courses, as defined, to claim up to 10% of the total average daily attendance of pupils enrolled in grades 9 to 12, inclusive, on the basis of a pupil's satisfactory pupil progress toward obtaining a high school diploma by earning course credit through attendance in online educational learning programs, as defined. The bill would cap, as specified, the number of pupils a school district, county office of education, or charter school may enroll in an online course or courses. The bill would also require a school district, county office of education, or charter school *providing classroom-based instruction* that did not offer an online course or courses in the 2014–15 school year but chooses to enroll pupils in an online course or courses, to offer the course or courses at the beginning of the school year and to submit semiannual reports to the State Department of Education comparing the course credits earned by pupils enrolled in an online course or courses to the course credits earned by pupils enrolled in classroom-based courses.

The bill would authorize a school district, county office of education, or charter school *providing classroom-based instruction* that operates an online educational learning program to receive state apportionments for up to 10% of the total average daily attendance of pupils enrolled in grades 9 to 12, inclusive, for 3 consecutive years, and for an additional 3 years if semiannual reports are submitted, as described above, and the enrolled pupils are achieving satisfactory pupil progress. The bill would require a school district, county office of education, or charter school that enrolls pupils in an online course or courses to develop and adopt policies that evaluate if a pupil is achieving satisfactory pupil progress and if a pupil should be allowed to continue to enroll in the online educational learning program. The bill would require a participating school district, county office of education, or charter school to submit pupil records for review by the department that compare the course completion rate of pupils participating in the online educational learning program to the overall course completion rate for pupils enrolled in grades 9 to 12, inclusive, if the pupils participating in the online educational learning program are earning less than 75% of the course credits earned by pupils enrolled in classroom-based courses. The bill would require the department to develop a process authorizing a school district, county office of education, or charter school to reduce the state apportionment it receives for the online educational learning program if projected pupil enrollment or satisfactory pupil progress is

not being achieved. The bill would authorize the department to reduce or eliminate the apportionments a school district, county office of education, or charter school receives for pupils participating in the online educational learning program if the participating pupils have not achieved satisfactory pupil progress or the semiannual reports are not submitted. The bill would authorize a school district, county office of education, or charter school to appeal a decision of the department to reduce or eliminate the state apportionments received for pupils participating in the online educational learning program.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 46308 is added to the Education Code,  
2 to read:  
3 46308. (a) Subject to subdivision (k) and commencing with  
4 the 2015–16 fiscal year, a school district, county office of  
5 education, or charter school *providing classroom-based instruction,*  
6 *as defined in paragraph (1) of subdivision (e) of Section 47612.5,*  
7 may claim, for up to 10 percent of the total average daily attendance  
8 of pupils enrolled in grades 9 to 12, inclusive, in the school district,  
9 county office of education, or charter school, state apportionments  
10 pursuant to Section 46309, on the basis of a pupil’s satisfactory  
11 pupil progress toward obtaining a high school diploma by earning  
12 course credit through attendance in online educational learning  
13 programs. Online educational learning programs may include one  
14 online course, multiple online courses, or a combination of online  
15 coursework and classroom-based coursework. Online educational  
16 learning programs shall be separate from online courses offered  
17 pursuant to Section 46300.8. Pupils shall be eligible to participate  
18 in online educational learning programs if all of the following  
19 apply:  
20 (1) The pupil is enrolled in grade 9, 10, 11, or 12 *in a*  
21 *participating school district, county office of education, or charter*  
22 *school.*  
23 (2) The pupil is a California resident.  
24 (3) The pupil is enrolled in classes that include courses in a  
25 classroom-based setting, courses that are offered through an online  
26 program, or both.

1 (4) The pupil is not enrolled in a community day school or  
2 juvenile court school.

3 (5) The pupil meets minimum instructional time requirements  
4 pursuant to:

5 (A) Section 46141 and Section 46201, 46201.5, or 46202, as  
6 applicable, for pupils enrolled in a noncharter school in a school  
7 district or county office of education.

8 (B) Section 46170, for pupils enrolled in a continuation school.

9 (C) Section 46180, for pupils enrolled in an opportunity school.

10 (D) Subdivision (e) of Section 47612.5, for pupils enrolled in  
11 a charter school.

12 (6) Each online course in which the pupil is enrolled is a  
13 high-quality online course.

14 (b) For the purposes of this section, a “high-quality online  
15 course” is defined as an online course that meets all of the  
16 following requirements:

17 (1) The online course is approved by the governing board of  
18 the school district or county office of education, or by the  
19 governing body of the charter school.

20 (2) The online course is certified to meet the requirements of  
21 this subdivision, through board resolution, by the governing board  
22 of the school district or county office of education, or by the  
23 governing body of the charter school.

24 (3) The online course is certified by the governing board of the  
25 school district or county office of education, or by the governing  
26 body of the charter school, as being as rigorous as a  
27 classroom-based course and meeting or exceeding all relevant state  
28 content standards.

29 (4) ~~(A)~~ A teacher teaching an online course or courses operated  
30 pursuant to this section shall be accessible to each pupil enrolled  
31 in the online course or courses to respond to pupil queries, assign  
32 tasks, and dispense information. A teacher teaching an online  
33 course shall provide timely feedback on communications for pupils  
34 within 24 hours and timely feedback for assessing pupils’ work  
35 within 72 hours for minor assignments and within one week for  
36 major assignments, including, but not limited to, midterm and final  
37 examinations, major projects, and compositions. A teacher teaching  
38 an online course shall employ all of the following:

39 (i)

40 (A) Periodic proctored examinations.

(ii)

(B) Direct teacher-pupil meetings, in person, no less than twice per calendar month.

(iii)

(C) A visual connection, including, but not limited to, an Internet Web camera.

(5) Specific minimum standards for teacher-pupil contact shall be determined through a collective bargaining agreement.

(6) (A) The ratio of pupils enrolled in the online course who are 18 years of age or younger to school district full-time equivalent certificated employees who provide online instruction, to be calculated in a manner prescribed by the department, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the school district, unless a higher or lower ratio is negotiated in a collective bargaining agreement.

(B) The ratio of pupils enrolled in the online course who are 18 years of age or younger to county office of education full-time equivalent certificated employees who provide online instruction, to be calculated in a manner prescribed by the department, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the high school or unified school district with the greatest average daily attendance of pupils in that county, unless a higher or lower ratio is negotiated in a collective bargaining agreement.

(C) The computation of the ratios in subparagraphs (A) and (B) shall be performed annually by the reporting agency at the time of, and in connection with, the second principal apportionment report to the Superintendent.

(7) When a classroom-based course of the same course title exists within the school district, county office of education, or charter school, the subject matter content of the online course shall meet or exceed the content standards applied to the classroom-based course.

(8) The teacher of the online course holds the appropriate subject matter ~~credential~~ and *credential*, meets the requirements for a highly qualified teacher pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et ~~seq.~~ *seq.*), and is employed in the state of California.

1 (9) (A) Statewide testing results for pupils enrolled in an online  
2 course or courses are reported and assigned to the school in which  
3 the pupil is enrolled for classroom-based courses, and to any school  
4 district or county office of education within which that school's  
5 testing results are aggregated.

6 (B) Statewide testing results for pupils enrolled in an online  
7 course or courses may be disaggregated for purposes of comparing  
8 the testing results of those pupils to the testing results of pupils  
9 enrolled in classroom-based courses.

10 (10) The online course is offered by a high school, continuation  
11 school, county office of education, or charter school offering  
12 instruction in any of grades 9 to 12, inclusive.

13 (11) No pupil is assigned to the online course unless the pupil  
14 voluntarily elects to participate in the online course and the parent  
15 or guardian of the pupil provides written consent before the pupil  
16 participates in the online course.

17 (12) No pupil voluntarily electing to participate in the online  
18 course is denied access because the pupil lacks the computer  
19 hardware or software necessary to participate in the online course.

20 (13) No pupil is charged for his or her participation in the online  
21 course.

22 (14) A pupil enrolled in the online course shall take  
23 examinations by proctor, or other reliable methods used to ensure  
24 test integrity, and there is a clear record of pupil work, using the  
25 same method of documentation and assessment as used in a  
26 classroom-based course.

27 (c) Nothing in this section shall affect a state board  
28 determination made pursuant to Section 47612.5.

29 (d) Compliance with this section shall be subject to the audit  
30 conducted pursuant to Section 41020.

31 (e) (1) Each high-quality online course shall be deemed to be  
32 an offering of 60 minutes for purposes of calculating instructional  
33 time.

34 (2) A pupil shall not receive course credit for the same  
35 high-quality online course more than once.

36 (3) A pupil enrolled in a high-quality online course shall be  
37 credited with a day of attendance for each schoolday the pupil is  
38 enrolled in the high-quality online course and in accordance with  
39 paragraph (5) of subdivision (a).

1 (4) “Satisfactory pupil progress” means a pupil has earned at  
2 least 60 course credits in a school year.

3 (f) To remain eligible for claiming and generating  
4 apportionments, a pupil over 19 years of age enrolled in an online  
5 course or courses shall be continuously enrolled in public school  
6 and achieve satisfactory pupil progress, as defined in paragraph  
7 (4) of subdivision (e), toward award of a high school diploma.

8 (g) To receive state apportionments, a school district, county  
9 office of education, or charter school *providing classroom-based*  
10 *instruction, as defined in paragraph (1) of subdivision (e) of*  
11 *Section 47612.5*, offering an online course or courses meeting the  
12 requirements of subdivision (b) shall not be required to meet the  
13 requirements of Article 5.5 (commencing with Section 51745) of  
14 Chapter 5 of Part 28.

15 (h) (1) A participating school district, county office of  
16 education, or charter school *providing classroom-based instruction,*  
17 *as defined in paragraph (1) of subdivision (e) of Section 47612.5,*  
18 shall receive state apportionments, for up to 10 percent of the total  
19 average daily attendance for pupils enrolled in grades 9 to 12,  
20 inclusive, in the school district, county office of education, or  
21 charter school, for pupils enrolled in a high-quality online course  
22 or courses, as defined in subdivision (b), based on the number of  
23 pupils enrolled in an online course or courses in the 2014–15 school  
24 year, or the percentage of pupils authorized to enroll in an online  
25 course or courses pursuant to paragraph (2), whichever is greater.

26 (2) A participating school district, county office of education,  
27 or charter school *providing classroom-based instruction, as defined*  
28 *in paragraph (1) of subdivision (e) of Section 47612.5,* that did  
29 not offer an online course or courses in the 2014–15 school year  
30 shall receive state apportionments, for up to 10 percent of the total  
31 average daily attendance of pupils enrolled in grades 9 to 12,  
32 inclusive, of the school district, county office of education, or  
33 charter school, if all of the following conditions are met:

34 (A) A participating school district, county office of education,  
35 or charter school satisfies the requirements of subdivisions (a) and  
36 (b).

37 (B) A participating school district, county office of education,  
38 or charter school offers the online course or courses at the  
39 beginning of the school year and demonstrates that at least the  
40 same number of pupils that the school district, county office of

1 education, or charter school is eligible to receive state  
2 apportionments for under an online educational learning program  
3 are actually enrolled in the online course or courses.

4 (C) The participating school district, county office of education,  
5 or charter school submits a semiannual report to the department  
6 comparing the course credits earned by pupils enrolled in an online  
7 course or courses to course credits earned by pupils enrolled in  
8 classroom-based courses.

9 (i) For purposes of this section, “online educational learning  
10 program” means a program of study that may include any  
11 combination of courses where the teacher and the pupil are online  
12 at the same time or are online at different times and do not interact  
13 simultaneously. A pupil may enroll in online courses,  
14 classroom-based courses, or a combination of both, during a  
15 schoolday to complete the pupil’s established program of study  
16 that satisfies the requirement of achieving satisfactory pupil  
17 progress toward obtaining a high school diploma by earning course  
18 credits.

19 (j) No provision of this section shall be waived unless the waiver  
20 is specifically authorized in statute.

21 (k) The Superintendent, on or before January 1, 2015, shall  
22 adopt rules and regulations implementing this section.

23 (l) This section shall become inoperative on June 30, 2019, and,  
24 as of January 1, 2020, is repealed, unless a later enacted statute,  
25 that becomes operative on or before January 1, 2020, deletes or  
26 extends the dates on which it becomes inoperative and is repealed.

27 SEC. 2. Section 46309 is added to the Education Code, to read:

28 46309. (a) Subject to subdivision (g), a school district, county  
29 office of education, or charter school *providing classroom-based*  
30 *instruction, as defined in paragraph (1) of subdivision (e) of*  
31 *Section 47612.5*, that operates an online educational learning  
32 program is eligible to receive state apportionments for up to 10  
33 percent of the total average daily attendance of pupils enrolled in  
34 grades 9 to 12, inclusive, of the school district, county office of  
35 education, or charter school, pursuant to Section 46308, for three  
36 consecutive years. A school district, county office of education,  
37 or charter school *providing classroom-based instruction, as defined*  
38 *in paragraph (1) of subdivision (e) of Section 47612.5*, is eligible  
39 to receive state apportionments for an additional three years if the  
40 school district, county office of education, or charter school submits



1 the semiannual reports described in subparagraph (C) of paragraph  
2 (2) of subdivision (h) of Section 46308, and the pupils enrolled in  
3 the online course or courses are achieving satisfactory pupil  
4 progress, as defined in paragraph (4) of subdivision (e) of Section  
5 46308.

6 (b) A participating school district, county office of education,  
7 or charter school shall develop and adopt policies that evaluate if  
8 a pupil is achieving satisfactory pupil progress, as defined in  
9 paragraph (4) of subdivision (e) of Section 46308, and if a pupil  
10 should be allowed to continue to participate in the online  
11 educational learning program.

12 (c) If, in any year of participation, the pupils participating in an  
13 online educational learning program offered by a school district,  
14 county office of education, or charter school are earning less than  
15 75 percent of the course credits earned by pupils enrolled in  
16 classroom-based courses, the participating school district, county  
17 office of education, or charter school shall submit pupil records  
18 for review by the department that compare the course completion  
19 rate of pupils participating in the online educational learning  
20 program to the overall course completion rate for pupils enrolled  
21 in grades 9 to 12, inclusive, in the participating school district,  
22 county office of education, or charter school.

23 (d) The department shall develop a process authorizing a school  
24 district, county office of education, or charter school, to voluntarily  
25 reduce the state apportionments received for the online educational  
26 learning program if projected pupil enrollment is not achieved, or  
27 the pupils are not achieving satisfactory pupil progress, as defined  
28 in paragraph (4) of subdivision (e) of Section 46308.

29 (e) The department may reduce or eliminate the state  
30 apportionments a participating school district, county office of  
31 education, or charter school receives for pupils participating in an  
32 online educational learning program if the pupils have not achieved  
33 satisfactory pupil progress, as defined in paragraph (4) of  
34 subdivision (e) of Section 46308, for three consecutive years or  
35 the school district, county office of education, or charter school  
36 does not comply with the semiannual reporting requirements  
37 described in subparagraph (C) of paragraph (2) of subdivision (h)  
38 of Section 46308. The department shall review the pupil records  
39 of pupils participating in the online educational learning program  
40 to make this determination. If the department decides to eliminate

1 the state apportionments a participating school district, county  
2 office of education, or charter school receives for pupils  
3 participating in an online educational learning program, the state  
4 apportionments shall be eliminated in the year following the year  
5 the department decides to eliminate the state apportionments. A  
6 participating school district, county office of education, or charter  
7 school may appeal to the state board the decision of the department  
8 to reduce or eliminate the state apportionments a participating  
9 school district, county office of education, or charter school  
10 receives for pupils participating in an online educational learning  
11 program.

12 (f) Compliance with this section shall be subject to the audit  
13 conducted pursuant to Section 41020.

14 (g) The Superintendent, on or before January 1, 2015, shall  
15 adopt rules and regulations implementing this section.

16 (h) This section shall become inoperative on June 30, 2019,  
17 and, as of January 1, 2020, is repealed, unless a later enacted  
18 statute, that becomes operative on or before January 1, 2020,  
19 deletes or extends the dates on which it becomes inoperative and  
20 is repealed.